



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,627	12/06/2000	Mohan Vishnupad	370-19	9463

7590

08/30/2002

CARTER, DELUCA, FARRELL & SCHMIDT LLP  
445 Broad Hollow Road  
Suite 225  
Melville, NY 11747

EXAMINER

MRUK, BRIAN P

ART UNIT

PAPER NUMBER

1751

DATE MAILED: 08/30/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

72-9

**Office Action Summary**

Application No.

09/730,627

Applicant(s)

VISHNUPAD, MOHAN

Examiner

Brian P Mruk

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5,7-9 and 11-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-9 and 11-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 1751

### **DETAILED ACTION**

1. This Office action is in response to Applicant's amendment filed June 6, 2002. Applicant has amended claims 1 and 23. Claims 3, 4, 6 and 10 have been canceled. New claims 27-40 have been added. Currently, claims 1-2, 5, 7-9 and 11-40 remain pending in the application.
2. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office action, Paper No. 5.
3. The rejection of claim 10 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendment. Specifically, applicant has canceled claim 10.
4. The rejection of claims 1-5, 7-11, 16-17, 21 and 23-24 under 35 U.S.C. 102(b) as being anticipated by Mast, U.S. Patent No. 4,140,656, is withdrawn in view of applicant's amendments and remarks.
5. The rejection of claims 1-5, 7-18, 21 and 23-24 under 35 U.S.C. 102(b) as being anticipated by Vora et al, U.S. Patent No. 4,056,615, is withdrawn in view of applicant's amendments and remarks.

Art Unit: 1751

6. The rejection of claims 1-5, 7, 10-17 and 19 under 35 U.S.C. 102(e) as being anticipated by Duffy et al, U.S. Patent No. 6,020,367, is withdrawn in view of applicant's amendments and remarks.

7. The rejection of claims 8-9 and 20-26 under 35 U.S.C. 103(a) as being unpatentable over Duffy et al, U.S. Patent No. 6,020,367, is withdrawn in view of applicant's amendments and remarks.

## **NEW GROUNDS OF REJECTION**

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

9. Claims 1, 2, 5, 7-9, 11-16, 21, 23, 24, 27-34 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Cen et al, U.S. Patent No. 6,428,799.

Art Unit: 1751

Cen et al, U.S. Patent No. 6,428,799, discloses a composition for cleaning skin and hair comprising 8.87% by weight of sodium lauroyl sarcosinate, 7.39% by weight of polyethyleneimine, 4.43% by weight of water, 6.36% by weight of sulfuric acid, 34.45% by weight of glycerin, 2.5% by weight of propylene glycol, 16% by weight of Sepigel 305 (i.e. a mixture of polyacrylamide, C<sub>13-14</sub> isoparaffin and laureth-7), 12% by weight of 12-hydroxystearic acid, and 8.0% by weight of stearyl alcohol (See col. 61, Example 65), per the requirements of instant claims 1, 2, 5, 7-9, 11-16, 21, 23, 24, 27-34 and 39. Also note Examples 66-67. Therefore, claims 1, 2, 5, 7-9, 11-16, 21, 23, 24, 27-34 and 39 are anticipated by Cen et al, U.S. Patent No. 6,428,799.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 17-20, 22, 25, 26, 35-38 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cen et al, U.S. Patent No. 6,428,799.

Art Unit: 1751

Cen et al, U.S. Patent No. 6,428,799, is relied upon supra as disclosing a composition for cleaning skin and hair comprising 8.87% by weight of sodium lauroyl sarcosinate, 7.39% by weight of polyethyleneimine, 4.43% by weight of water, 6.36% by weight of sulfuric acid, 34.45% by weight of glycerin, 2.5% by weight of propylene glycol, 16% by weight of Sepigel 305 (i.e. a mixture of polyacrylamide, C<sub>13-14</sub> isoparaffin and laureth-7), 12% by weight of 12-hydroxystearic acid, and 8.0% by weight of stearyl alcohol (col. 61, Example 65). It is further taught by Cen et al that the cleaning composition may further contain astringents, such as menthol (col. 12, lines 66-67), anionic surfactants, such as sodium cocoyl isethionate (col. 16, lines 13-24), vitamins, such as Vitamin E (col. 28, lines 40-50), and antimicrobial agents, such as erythromycin (col. 30, lines 25-28), per the requirements of instant claims 17-20, 22, 25, 26, 35-38 and 40. Although Cen et al generally discloses a cleansing composition containing astringents, such as menthol, anionic surfactants, such as sodium cocoyl isethionate, vitamins, such as Vitamin E, and antimicrobial agents, such as erythromycin, the reference does not require such a cleansing composition containing these components with sufficient specificity to constitute anticipation.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to have formulated a cleansing composition, as taught by Cen et al, which contained astringents, such as menthol, anionic surfactants, such as sodium cocoyl isethionate, vitamins, such as Vitamin E, and antimicrobial agents, such as erythromycin, because such a cleansing

Art Unit: 1751

composition is expressly suggested by the Cen et al disclosure and therefore is an obvious formulation, absent a showing otherwise.

***Response to Arguments***

12. Applicant's arguments with respect to claims 1-2, 5, 7-9 and 11-40 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 1751

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (703) 305-0728. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 (**Before Final**) and (703) 872-9311 (**After Final**).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

BPM

Brian Mruk  
August 28, 2002

  
Mark Kopec  
Primary Examiner